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APPLICATION NO.	] 1	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/080,302	- 11	02/21/2002	Alois Sferrazza	27325.00	27325.00 9096	
22465	7590	08/25/2004		EXAMINER		
PITTS AND BRITTIAN P C P O BOX 51295				PHASGE, ARUN S		
KNOXVILLE, TN 37950-1295				ART UNIT	PAPER NUMBER	
				1753		

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)					
Office Action Summers	10/080,302	SFERRAZZA, ALOIS					
Office Action Summary	Examiner	Art Unit					
	Arun S. Phasge	1753					
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	correspondence address					
A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply If NO period for reply is specified above, the maximum statutory period we Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	6(a). In no event, however, may a reply be tin within the statutory minimum of thirty (30) day ill apply and will expire SIX (6) MONTHS from CAUSE the application to be seen ARAM COME.	mely filed s will be considered timely. the mailing date of this communication.					
Status							
1) Responsive to communication(s) filed on <u>02 Jul</u>	<u>ne 2004</u> .						
2a)⊠ This action is <b>FINAL</b> . 2b)□ This action is non-final.							
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is							
closed in accordance with the practice under Ex	k parte Quayle, 1935 C.D. 11, 45	i3 O.G. 213.					
Disposition of Claims							
4)⊠ Claim(s) <u>1-12</u> is/are pending in the application.							
4a) Of the above claim(s) is/are withdrawn from consideration.							
5) Claim(s) is/are allowed.							
6)⊠ Claim(s) <u>1-12</u> is/are rejected.							
7) Claim(s) is/are objected to.							
8) Claim(s) are subject to restriction and/or	election requirement.						
Application Papers							
9)☐ The specification is objected to by the Examiner.							
10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.							
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).							
11)☐ The oath or declaration is objected to by the Exa	miner. Note the attached Office	Action or form PTO-152.					
Priority under 35 U.S.C. § 119							
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of:							
1. Certified copies of the priority documents have been received.							
2. Certified copies of the priority documents have been received in Application No							
3. Copies of the certified copies of the priority documents have been received in this National Stage							
application from the International Bureau	PCT Rule 17.2(a)).	and traditional Grago					
* See the attached detailed Office action for a list of the certified copies not received.							
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Attachment(s)  1) Notice of References Cited (RTO 900)	🗀						
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 4) Interview Summary (PTO-413) Paper No(s)/Mail Date.							
3) Al Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) 🔲 Notice of Informal Pa						
Paper No(s)/Mail Date	6) Other:						

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#### DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### Claim Rejections - 35 USC \$ 102

Claims 1-4, 7-12 stand rejected under 35 U.S.C. 102(b) as being anticipated by Goldstein of record for reasons of record.

### Claim Rejections - 35 USC § 103

Claims 5-6 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Goldstein as applied to claims above, and further in view of Schmidt of record for reasons of record.

## Response to Arguments

Applicant's arguments filed 6/2/04 have been fully considered but they are not persuasive.

Applicants argue that the Goldstein patent "incorrectly refers to the invention disclosed therein as relating to electrodialysis rather than electrodeionization. While the Goldstein patent does disclose the use of the "occasionally mistermed" filled cell electrodialysis, the reference clearly shows that it is a subset of the larger group, i.e., electrodialysis (see abstract). Indeed

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the reference discloses other members of the electrodialysis group, "including" electrodialysis (ED), reversing type electrodialysis, filled-cell ED and reversing type, filled-cell ED (see col. 22, lines 43-48). The reference further teaches that the frame used in all these types of cell (col. 22, lines 43-44).

Thus, while applicants can cite portions of the reference which are directed to EDI or filled-cell ED, it is untenable to limit the disclosure of the Goldstein patent to a mere embodiment when the patent shows that it is used in a varieties of different ways.

Applicants further argue that the combination of Goldstein with Schmidt is untenable, because they are from non-analogous art.

As stated above, the Goldstein patent is directed to electrodialysis. Thus the Schmidt and Goldstein patents are from analogous art. Furthermore, as shown in the prior Action, one having ordinary skill in the art would have been motivated to modify the disclosure of the Goldstein patent with the teachings of the Schmidt patent to obtain the instant invention.

Accordingly, all the claims stand rejected.

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#### Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arun 5. Phasge whose telephone number is (571) 272-1345. The examiner can normally be reached on MONDAY-THURSDAY, 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam X Nguyen can be reached on (571) 272-1342. The fax

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phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Primary Examiner
Art Unit 1753

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